

AMENDED IN ASSEMBLY MARCH 25, 2004

AMENDED IN SENATE JANUARY 6, 2004

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE APRIL 28, 2003

SENATE BILL

No. 512

Introduced by Senator Figueroa

February 20, 2003

An act to amend Section 7655 of the Fish and Game Code, and to amend ~~Section 36710~~ *Sections 36700 and 36710* of the Public Resources Code, relating to marine resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 512, as amended, Figueroa. Marine resources: Pacific Fishery Management Council: Marine managed areas: state water quality protection areas.

(1) Existing law states that it is the policy of the state that the state be represented on the federal Pacific Fishery Management Council by representatives of those fisheries directly subject to the fishery management plans of the council. Existing law requires that special emphasis be made on the nominations and appointments to the council for a California commercial salmon troll fisherman, and, in order to assure a balanced representation on the council, representatives from the seafood processing industry, the commercial passenger carrying fishing industry, the groundfish fishery, and the coastal pelagic species fishery. Existing law requires that when the Governor makes a nomination for any seat on the council, the individual be knowledgeable of California's fishery resources and its fishing industry and needs.

Existing law requires the nominations to be made after consultation with fishery organizations whose members are directly affected by the actions of the council.

This bill would state that it is the policy of the state that the state be represented on the council by persons knowledgeable about fisheries directly subject to the fishery management plans of the council. The bill would require that nominations and appointments to the council be a balanced representation of interested parties, including, but not limited to, the parties listed above and nongovernmental environmental organizations and marine scientists. The bill would delete the requirement that a person nominated by the Governor for a seat on the council be knowledgeable of the state's fishing needs. The bill would delete the requirement that the nominations be made after consultation with fishery organization members who are directly affected by the actions of the council, and instead would require the nominations be made after consultation with fishery organizations and other interested parties, including parties representing the public's interest in the fishery resources and marine environment.

(2) Existing law establishes the Marine Managed Areas Improvement Act, which, among other things, prescribes 6 classifications for designating managed areas in the marine and estuarine environments to ensure the long-term ecological viability and biological productivity of marine ecosystems and to preserve cultural resources in the coastal sea, including state water quality protection areas. *The act defines state water quality protection areas for the purposes of the act as including areas of special biological significance.*

Existing law requires the State Water Resources Control Board to formulate and adopt, and review at least every 3 years, a water quality control plan for the ocean waters of the state known as the California Ocean Plan. An existing plan adopted by the state board, the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) provides thermal requirements for coastal and interstate waters, and the bays and estuaries in the state.

This bill would specify that areas of special biological significance are a subset of state water quality protection areas and require special protection as determined by the state board pursuant to the California Ocean Plan and the California Thermal Plan.

The ~~act~~ *Marine Managed Areas Improvement Act* authorizes the ~~State Water Resources Control Board~~ *state board* and the California



regional water quality control boards to take appropriate actions to protect state water quality protection areas. The act requires that, in a state water quality protection area, point source waste and thermal discharges be prohibited or limited by special conditions, and that nonpoint source pollution be controlled to the extent practicable.

This bill would, instead, require ~~that, in waste discharges that could affect a state water quality protection area, point source waste discharges~~ be prohibited or limited by special conditions ~~and that nonpoint source waste be regulated~~ in accordance with the Porter-Cologne Water Quality Control Act and implementing regulations, *including, but not limited to, the California Ocean Plan and the California Thermal Plan.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7655 of the Fish and Game Code is
 2 amended to read:
 3 7655. (a) It is the policy of the State of California that the
 4 state be represented on the Pacific Fishery Management Council
 5 by people who are knowledgeable about fisheries directly subject
 6 to the fishery management plans of the council. Nominations and
 7 appointments to the Pacific Fishery Management Council shall be
 8 a balanced representation of interested parties, including, but not
 9 limited to, representatives from the commercial salmon troll
 10 fishery, the groundfish fishery, the coastal pelagic species fishery,
 11 the seafood processing industry, the commercial passenger
 12 carrying fishing industry, nongovernmental environmental
 13 organizations, and marine scientists.
 14 (b) When the Governor nominates persons for any seat on the
 15 Pacific Fishery Management Council, those individuals shall be
 16 knowledgeable of California's fishery resources and its fishing
 17 industry. Further, the nominations shall be made after consultation
 18 with fishery organizations and other interested parties, including
 19 parties representing the public's interest in the fishery resources
 20 and marine environment.
 21 SEC. 2. Section 36700 of the Public Resources Code is
 22 amended to read:

1 36700. Six classifications for designating managed areas in
2 the marine and estuarine environments are hereby established as
3 described in this section, to become effective January 1, 2002.
4 Where the term “marine” is used, it refers to both marine and
5 estuarine areas. A geographic area may be designated under more
6 than one classification.

7 (a) A “state marine reserve” is a nonterrestrial marine or
8 estuarine area that is designated so the managing agency may
9 achieve one or more of the following:

10 (1) Protect or restore rare, threatened, or endangered native
11 plants, animals, or habitats in marine areas.

12 (2) Protect or restore outstanding, representative, or imperiled
13 marine species, communities, habitats, and ecosystems.

14 (3) Protect or restore diverse marine gene pools.

15 (4) Contribute to the understanding and management of marine
16 resources and ecosystems by providing the opportunity for
17 scientific research in outstanding, representative, or imperiled
18 marine habitats or ecosystems.

19 (b) A “state marine park” is a nonterrestrial marine or
20 estuarine area that is designated so the managing agency may
21 provide opportunities for spiritual, scientific, educational, and
22 recreational opportunities, as well as one or more of the following:

23 (1) Protect or restore outstanding, representative, or imperiled
24 marine species, communities, habitats, and ecosystems.

25 (2) Contribute to the understanding and management of marine
26 resources and ecosystems by providing the opportunity for
27 scientific research in outstanding representative or imperiled
28 marine habitats or ecosystems.

29 (3) Preserve cultural objects of historical, archaeological, and
30 scientific interest in marine areas.

31 (4) Preserve outstanding or unique geological features.

32 (c) A “state marine conservation area” is a nonterrestrial
33 marine or estuarine area that is designated so the managing agency
34 may achieve one or more of the following:

35 (1) Protect or restore rare, threatened, or endangered native
36 plants, animals, or habitats in marine areas.

37 (2) Protect or restore outstanding, representative, or imperiled
38 marine species, communities, habitats, and ecosystems.

39 (3) Protect or restore diverse marine gene pools.

1 (4) Contribute to the understanding and management of marine
2 resources and ecosystems by providing the opportunity for
3 scientific research in outstanding, representative, or imperiled
4 marine habitats or ecosystems.

5 (5) Preserve outstanding or unique geological features.

6 (6) Provide for sustainable living marine resource harvest.

7 (d) A “state marine cultural preservation area” is a
8 nonterrestrial marine or estuarine area designated so the managing
9 agency may preserve cultural objects or sites of historical,
10 archaeological, or scientific interest in marine areas.

11 (e) A “state marine recreational management area” is a
12 nonterrestrial marine or estuarine area designated so the managing
13 agency may provide, limit, or restrict recreational opportunities to
14 meet other than exclusively local needs while preserving basic
15 resource values for present and future generations.

16 (f) A “state water quality protection area” is a nonterrestrial
17 marine or estuarine area designated to protect marine species or
18 biological communities from an undesirable alteration in natural
19 water quality, including, but not limited to, areas of special
20 biological significance that have been designated by the State
21 Water Resources Control Board through its water quality control
22 planning process. *“Areas of special biological significance” are*
23 *a subset of state water quality protection areas, and require special*
24 *protection as determined by the State Water Resources Control*
25 *Board pursuant to the California Ocean Plan adopted and*
26 *reviewed pursuant to Section 13170.2 of the Water Code and*
27 *pursuant to the Water Quality Control Plan for Control of*
28 *Temperature in the Coastal and Interstate Waters and Enclosed*
29 *Bays and Estuaries of California (California Thermal Plan)*
30 *adopted by the state board.*

31 SEC. 3. Section 36710 of the Public Resources Code is
32 amended to read:

33 36710. (a) In a state marine reserve, it is unlawful to injure,
34 damage, take, or possess any living geological, or cultural marine
35 resource, except under a permit or specific authorization from the
36 managing agency for research, restoration, or monitoring
37 purposes. While, to the extent feasible, the area shall be open to the
38 public for managed enjoyment and study, the area shall be
39 maintained to the extent practicable in an undisturbed and
40 unpolluted state. Access and use for activities including, but not

1 limited to, walking, swimming, boating, and diving may be
2 restricted to protect marine resources. Research, restoration, and
3 monitoring may be permitted by the managing agency.
4 Educational activities and other forms of nonconsumptive human
5 use may be permitted by the designating entity or managing
6 agency in a manner consistent with the protection of all marine
7 resources.

8 (b) In a state marine park, it is unlawful to injure, damage, take,
9 or possess any living or nonliving marine resource for commercial
10 exploitation purposes. Any human use that would compromise
11 protection of the species of interest, natural community or habitat,
12 or geological, cultural, or recreational features, may be restricted
13 by the designating entity or managing agency. All other uses are
14 allowed, including scientific collection with a permit, research,
15 monitoring, and public recreation, including recreational harvest,
16 unless otherwise restricted. Public use, enjoyment, and education
17 are encouraged, in a manner consistent with protecting resource
18 values.

19 (c) In a state marine conservation area, it is unlawful to injure,
20 damage, take, or possess any living, geological, or cultural marine
21 resource for commercial or recreational purposes, or a
22 combination of commercial and recreational purposes, that the
23 designating entity or managing agency determines would
24 compromise protection of the species of interest, natural
25 community, habitat, or geological features. The designating entity
26 or managing agency may permit research, education, and
27 recreational activities, and certain commercial and recreational
28 harvest of marine resources.

29 (d) In a state marine cultural preservation area, it is unlawful to
30 damage, take, or possess any cultural marine resource. Complete
31 integrity of the cultural resources shall be sought, and no structure
32 or improvements that conflict with that integrity shall be
33 permitted. No other use is restricted.

34 (e) In a state marine recreational management area, it is
35 unlawful to perform any activity that, as determined by the
36 designating entity or managing agency, would compromise the
37 recreational values for which the area may be designated.
38 Recreational opportunities may be protected, enhanced, or
39 restricted, while preserving basic resource values of the area. No
40 other use is restricted.

1 ~~(f) In a state water quality protection area, point source waste~~
2 ~~discharges shall be prohibited or limited by special conditions.~~
3 ~~Nonpoint source waste shall be regulated in accordance with the~~

4 *(f) Waste discharges that could affect a state water quality*
5 *protection area shall be prohibited or limited by special conditions*
6 *in accordance with the Porter-Cologne Water Quality Control Act*
7 *(Division 7 (commencing with Section 13000) of the Water Code)*
8 *and implementing regulations, including, but not limited to, the*
9 *California Ocean Plan adopted and reviewed pursuant to Section*
10 *13170.2 of the Water Code and the Water Quality Control Plan for*
11 *Control of Temperature in the Coastal and Interstate Waters and*
12 *Enclosed Bays and Estuaries of California (California Thermal*
13 *Plan) adopted by the state board. No other use is restricted.*

